

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL HARPER.

Case No. 2:21-cv-00130-JDP (PC)

Plaintiff,

**FINDINGS AND RECOMMENDATIONS
DENYING MOTION TO PROCEED IN FORMA
PAUPERIS AND REQUIRING PAYMENT OF
FILING FEE IN FULL WITHIN TWENTY-ONE
DAYS**

CDCR, *et al.*,

ECF No. 2

OBJECTIONS DUE WITHIN 14 DAYS

ORDER TO ASSIGN CASE TO DISTRICT JUDGE

Plaintiff, a state prisoner proceeding without counsel, has filed a complaint alleging claims under 42 U.S.C. § 1983, and an application to proceed *in forma pauperis*. ECF No. 1 & 2. In an order filed March 4, 2021, I observed that plaintiff appeared to be prohibited from proceeding *in forma pauperis* because he has previously had three actions dismissed for failure to state a claim. ECF No. 7; 28 U.S.C. § 1915(g). I noted that plaintiff would still be permitted to proceed *in forma pauperis* if his complaint alleged that he is in imminent danger of serious physical injury. Because the complaint's allegations—which relate to disciplinary proceedings and plaintiff's placement in administrative segregation—did not show that plaintiff was imminent danger, plaintiff was ordered to show cause within twenty-one days why, in spite of his “three-

1 “striker” status, he should be allowed to proceed *in forma pauperis*. ECF No. 2. Plaintiff was also
2 warned that failure to provide an adequate justification for being allowed to proceed *in forma*
3 *pauperis* would result in a recommendation that his application be denied.

4 The deadline has passed, and plaintiff has not responded to the court’s March 4, 2021
5 order. Accordingly, it is ORDERED that the Clerk of Court shall randomly assign a United
6 States District Judge to this case.

7 Further, it is RECOMMENDED that:

- 8 1. Plaintiff’s application to proceed *in forma pauperis*, ECF No. 2, be denied for the
9 reasons set forth in the March 4, 2021 order.
- 10 2. Plaintiff be ordered to pay the \$402 filing fee within twenty-one days of any order
11 adopting these findings and recommendations.
- 12 3. If plaintiff fails to pay the \$400 filing fee within twenty-one days of any order adopting
13 these findings and recommendations, this action be dismissed without prejudice.

14 These findings and recommendations are submitted to the United States District Judge
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
16 after being served with these findings and recommendations, any party may file written
17 objections with the court and serve a copy on all parties. Such a document should be captioned
18 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
19 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
20 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

21 IT IS SO ORDERED.

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23 Dated: May 4, 2021


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25 JEREMY D. PETERSON
26 UNITED STATES MAGISTRATE JUDGE
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